



forestry, fisheries  
& the environment

Department:  
Forestry, Fisheries and the Environment  
REPUBLIC OF SOUTH AFRICA

## INVITATION TO BID

**BID REFERENCE NUMBER: DFFE-T022 (22-23)**

**THE APPOINTMENT OF A SERVICE PROVIDER FOR THE DEVELOPMENT OF FEES/ USER CHARGES IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT: INTEGRATED COASTAL MANAGEMENT ACT (ACT NO. 24 OF 2008) (ICM ACT).**

**Contact persons:**

**Name: Adv. Radia Razack**

**Office Telephone No.: 084 513 1643**

**E-Mail: Rrazack@dffe.gov.za**

**NATIONAL TREASURY CENTRAL SUPPLIER DATABASE (CSD) REGISTRATION INFORMATION**

Company name	Supplier registration number	Unique reference number	
			<b>Main contractor</b>
			<b>Sub-contracted/ joint venture comp 1</b>
			<b>Sub-contracted/ joint venture comp 2</b>

**CLOSING DATE OF THE BID: 01 JULY 2022 AT 11H00**

## PART A INVITATION TO BID

<b>YOU ARE HEREBY INVITED TO BID FOR THE REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)</b>					
BID NUMBER:	DFFE-T022 (22/23)	CLOSING DATE: 01 JULY 2022	CLOSING TIME:	11:00	
DESCRIPTION	THE APPOINTMENT OF A SERVICE PROVIDER FOR THE DEVELOPMENT OF FEES/ USER CHARGES IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT: INTEGRATED COASTAL MANAGEMENT ACT (ACT NO. 24 OF 2008) (ICM ACT).				
<b>BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT (STREET ADDRESS)</b>					
Department of Forestry Fisheries and the Environment; The Environment House					
473 Steve Biko Road; Cnr. Soutpansberg and Steve Biko Road, Arcadia Pretoria / Tshwane					
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>			<b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>		
CONTACT PERSON	Ms. Ncumisa Mabece		CONTACT PERSON	Adv. Radia Razack	
TELEPHONE NUMBER	021-814 8322 / 072 174 3480		TELEPHONE NUMBER	084 513 1643	
FACSIMILE NUMBER	N/A		FACSIMILE NUMBER	N/A	
E-MAIL ADDRESS	<a href="mailto:nmabece@dffe.gov.za">nmabece@dffe.gov.za</a>		E-MAIL ADDRESS	<a href="mailto:Rrazack@dffe.gov.za">Rrazack@dffe.gov.za</a>	
<b>SUPPLIER INFORMATION</b>					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX]  <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX]  <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES &amp; QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]</b>					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?		<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW ]
<b>QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE A BRANCH IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?			<input type="checkbox"/> YES <input type="checkbox"/> NO		
IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS), AND IF NOT REGISTER AS PER 2.3 BELOW.					

## PART B

### TERMS AND CONDITIONS FOR BIDDING

<b>1. BID SUBMISSION:</b>
1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2. <b>ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED (NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.</b>
1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
1.4. <b>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).</b>
<b>2. TAX COMPLIANCE REQUIREMENTS</b>
2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

**NB: FAILURE TO PROVIDE / OR COMPLY WITH ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.**

SIGNATURE OF BIDDER: .....

CAPACITY UNDER WHICH THIS BID IS SIGNED: .....  
(Proof of authority must be submitted e.g. company resolution)

DATE: .....

**PRICING SCHEDULE**  
(Professional Services)

NAME OF BIDDER: .....	BID NO: DFFE-T022 (2022/2023)
CLOSING TIME 11:00	CLOSING DATE: 01 JULY 2022

OFFER TO BE VALID FOR .....120.....DAYS FROM THE CLOSING DATE OF BID.

**DESCRIPTION: THE APPOINTMENT OF A SERVICE PROVIDER FOR THE DEVELOPMENT OF FEES/ USER CHARGES IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT: INTEGRATED COASTAL MANAGEMENT ACT (ACT NO. 24 OF 2008) (ICM ACT).**

\*\*(ALL APPLICABLE TAXES INCLUDED)

1. The accompanying information must be used for the formulation of proposals.

2. Bidders are required to indicate a ceiling price based on the total estimated time for completion of all phases and including all expenses inclusive of all applicable taxes for the project.

R.....

3. PERSONS WHO WILL BE INVOLVED IN THE PROJECT AND RATES APPLICABLE (CERTIFIED INVOICES MUST BE RENDERED IN TERMS HEREOF)

4. PERSON AND POSITION

HOURLY RATE

DAILY RATE

-----

R-----

-----

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R-----

-----

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R-----

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R-----

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R-----

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5. PHASES ACCORDING TO WHICH THE PROJECT WILL BE COMPLETED, COST PER PHASE AND MAN-DAYS TO BE SPENT

-----

R-----

----- days

-----

R-----

----- days

-----

R-----

----- days

-----

R-----

----- days

5.1 Travel expenses (specify, for example rate/km and total km, class of airtravel, etc). Only actual costs are recoverable. Proof of the expenses incurred must accompany certified invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED

RATE

QUANTITY

AMOUNT

-----

-----

-----

R.....

-----

-----

-----

R.....

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-----

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R.....

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-----

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R.....

TOTAL: R.....

\*\* "all applicable taxes" includes value-added tax, pay as you earn, income tax, unemployment insurance contributions and skills development levies.

Name of Bidder: .....

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- 5.2 Other expenses, for example accommodation (specify, eg. Three star hotel, bed and breakfast, telephone cost, reproduction cost, etc.). On basis of these particulars, certified invoices will be checked for correctness. Proof of the expenses must accompany invoices.

DESCRIPTION OF EXPENSE TO BE INCURRED	RATE	QUANTITY	AMOUNT
.....	.....	.....	R.....
.....	.....	.....	R.....
.....	.....	.....	R.....
.....	.....	.....	R.....
TOTAL: R.....			

6. Period required for commencement with project after acceptance of bid .....  
7. Estimated man-days for completion of project .....  
8. Are the rates quoted firm for the full period of contract? \*YES/NO  
9. If not firm for the full period, provide details of the basis on which adjustments will be applied for, for example consumer price index. ....  
.....  
.....  
.....

\*[DELETE IF NOT APPLICABLE]

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Any inquiries regarding bidding procedures may be directed to the –

Department of Forestry, Fisheries and the Environment

**Contact Person:** Ms Ncumisa Mabece

**Tel:** (021) 814 8322 / 072 174 3480

**E-mail:** [nmabece@dffe.gov.za](mailto:nmabece@dffe.gov.za)

Or for technical information –

**Technical Contact Persons:**

**Name:** Adv. Radia Razack

**Telephone No.:** 084 513 1643

**E-Mail:** [Rrazack@dffe.gov.za](mailto:Rrazack@dffe.gov.za)

## BIDDER'S DISCLOSURE

### 1. PURPOSE OF THE FORM

Any person (natural or juristic) may make an offer or offers in terms of this invitation to bid. In line with the principles of transparency, accountability, impartiality, and ethics as enshrined in the Constitution of the Republic of South Africa and further expressed in various pieces of legislation, it is required for the bidder to make this declaration in respect of the details required hereunder.

Where a person/s is listed in the Register for Tender Defaulters and/or the List of Restricted Suppliers, that person will automatically be disqualified from the bid process.

### 2. Bidder's declaration

2.1 Is the bidder, or any of its directors/trustees/shareholders/members/partners or any person having a controlling interest<sup>1</sup> in the enterprise, employed by the state? **YES/NO**

2.1.1 If so, furnish particulars of the names, individual identity numbers, and, if applicable, state employee numbers of sole proprietor/directors/trustees/shareholders/members/ partners or any person having a controlling interest in the enterprise, in the table below.

Full Name	Identity Number	Name of State institution

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<sup>1</sup> the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.

2.2 Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution? **YES/NO**

2.2.1 If so, furnish particulars:

.....  
 .....

2.3 Does the bidder or any of its directors/trustees/shareholders/members/partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract?

**YES/NO**

2.3.1 If so, furnish particulars:

.....  
 .....

### **3 DECLARATION**

I, \_\_\_\_\_ the \_\_\_\_\_ undersigned,  
 (name)..... in  
 submitting the accompanying bid, do hereby make the following  
 statements that I certify to be true and complete in every respect:

- 3.1 I have read and understand the contents of this disclosure;
- 3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect;
- 3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement, or arrangement with any competitor. However, communication between partners in a joint venture or consortium<sup>2</sup> will not be construed as collusive bidding.
- 3.4 In addition, there have been no consultations, communications, agreements, or arrangements with any competitor regarding the quality, quantity, specifications, or prices, including methods, factors, or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

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<sup>2</sup> Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

- 3.5 There have been no consultations, communications, agreements, or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.
- 3.6 I am aware that, in addition, and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2, and 3 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....	.....
Signature	Date
.....	.....
Position	Name of bidder



## PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2017

This preference form must form part of all bids invited. It contains general information and serves as a claim form for preference points for Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution

**NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.**

### 1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to all bids:

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.2

- a) The value of this bid is estimated to not exceed R50 000 000 (all applicable taxes included) and therefore the 80/20 preference point system shall be applicable; or

1.3 Points for this bid shall be awarded for:

- (a) Price; and  
(b) B-BBEE Status Level of Contributor.

1.4 The maximum points for this bid are allocated as follows:

	POINTS
<b>PRICE</b>	80
<b>B-BBEE STATUS LEVEL OF CONTRIBUTOR</b>	20
<b>Total points for Price and B-BBEE must not exceed</b>	<b>100</b>

1.5 Failure on the part of a bidder to submit proof of B-BBEE Status level of contributor together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

1.6 The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

## 2. DEFINITIONS

- (a) **“B-BBEE”** means broad-based black empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;
- (b) **“B-BBEE status level of contributor”** means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- (c) **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services, through price quotations, advertised competitive bidding processes or proposals;
- (d) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- (e) **“EME”** means an Exempted Micro Enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (f) **“functionality”** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.
- (g) **“prices”** includes all applicable taxes less all unconditional discounts;
- (h) **“proof of B-BBEE status level of contributor”** means:
  - 1) B-BBEE Status level certificate issued by an authorized body or person;
  - 2) A sworn affidavit as prescribed by the B-BBEE Codes of Good Practice;
  - 3) Any other requirement prescribed in terms of the B-BBEE Act;
- (i) **“QSE”** means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9 (1) of the Broad-Based Black Economic Empowerment Act;
- (j) **“rand value”** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

### 3. POINTS AWARDED FOR PRICE

### 3.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

A maximum of 80 or 90 points is allocated for price on the following basis:

**80/20**

**or**

**90/10**

$$P_s = 80 \left( 1 - \frac{Pt - P_{\min}}{P_{\min}} \right) \quad \text{or} \quad P_s = 90 \left( 1 - \frac{Pt - P_{\min}}{P_{\min}} \right)$$

Where

Ps = Points scored for price of bid under consideration

Pt = Price of bid under consideration

$P_{min}$  = Price of lowest acceptable bid

#### 4. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTOR

- 4.1 In terms of Regulation 6 (2) and 7 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

## 5. BID DECLARATION

- 5.1 Bidders who claim points in respect of B-BBEE Status Level of Contribution must complete the following:

## 6. B-BBEE STATUS LEVEL OF CONTRIBUTOR CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1

- 6.1 B-BBEE Status Level of Contributor: . = maximum 20 points  
(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.)

## 7. SUB-CONTRACTING

- 7.1 Will any portion of the contract be sub-contracted?

(***Tick applicable box***)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

- 7.1.1 If yes, indicate:

- What percentage of the contract will be subcontracted.....%
- The name of the sub-contractor.....
- The B-BBEE status level of the sub-contractor.....
- Whether the sub-contractor is an EME or QSE

(***Tick applicable box***)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
-----	--------------------------	----	--------------------------

- v) Specify, by ticking the appropriate box, if subcontracting with an enterprise in terms of Preferential Procurement Regulations, 2017:

Designated Group: An EME or QSE which is at least 51% owned by:	EME √	QSE √
Black people		
Black people who are youth		
Black people who are women		
Black people with disabilities		

Black people living in rural or underdeveloped areas or townships		
Cooperative owned by black people		
Black people who are military veterans		
<b>OR</b>		
Any EME		
Any QSE		

**8. DECLARATION WITH REGARD TO COMPANY/FIRM**

8.1 Name of company/firm:.....

8.2 VAT registration number:.....

8.3 Company registration number:.....

**8.4 TYPE OF COMPANY/ FIRM**

- ☐ Partnership/Joint Venture / Consortium
- ☐ One person business/sole propriety
- ☐ Close corporation
- ☐ Company
- ☐ (Pty) Limited

[TICK APPLICABLE BOX]

**8.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES**

.....  
 .....  
 .....  
 .....  
 .....

**8.6 COMPANY CLASSIFICATION**

- ☐ Manufacturer
- ☐ Supplier
- ☐ Professional service provider
- ☐ Other service providers, e.g. transporter, etc.

[TICK APPLICABLE BOX]

8.7 Total number of years the company/firm has been in business:.....

8.8 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in

paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;

iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –

- (a) disqualify the person from the bidding process;
- (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
- (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
- (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
- (e) forward the matter for criminal prosecution.

WITNESSES

- 1. ....
- 2. ....

.....  
SIGNATURE(S) OF BIDDERS(S)

DATE: .....

ADDRESS .....

.....

.....



**forestry, fisheries  
and the environment**

Department:  
Forestry, Fisheries and the Environment  
**REPUBLIC OF SOUTH AFRICA**

**THE DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT (DFFE) AS AN ORGAN OF STATE SUBSCRIBES TO AND PROPAGATES BOTH THE NOTION OF BROAD BASED BLACK ECONOMIC EMPOWERMENT ACT, 2003 (Act No. 53 of 2003) (BBBEE), THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 (Act No. 5 of 2000) AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017.**

## **TERMS OF REFERENCE**

**FOR THE APPOINTMENT OF A SERVICE PROVIDER FOR THE DEVELOPMENT OF FEES/ USER CHARGES IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT: INTEGRATED COASTAL MANAGEMENT ACT (ACT NO. 24 OF 2008) (ICM ACT).**

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## **1. PURPOSE**

- 1.1 To appoint a service provider to assist the Department of Forestry, Fisheries and the Environment (DFFE) with the development and determination of a user fee structure for the implementation of the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) (“ICM Act”) and regulations promulgated thereunder for a period of twenty-four (24) months.
- 1.2 To develop a user fee structure for:
- Use of off-Road vehicles (ORV) in the coastal areas as provided by regulations published in terms of Section 83 of the ICM Act – the 2014 ORV Regulations.
  - The authorised disposal of waste at sea as outlined in Section 71(1) of the ICM Act.; and
  - The authorised discharge of effluent into coastal waters as outlined in Section 69 (1) of the ICM Act; and
  - a maximum fee structure for access to public launch sites

## **2. INTRODUCTION AND BACKGROUND**

- 2.1. The Department is responsible for regulating (through authorisations/ permits) the ORV permitting system for the implementation of the ORV regulations promulgated in terms of Section 83; disposal of waste at sea and the discharge of effluent into coastal waters as outlined in Section 69(1) and 71(1) of the ICM Act. This includes the application, administration and assessment process required when issuing Coastal Waters Discharge Permits (CWDP) and Dumping at Sea Permits (DASP) under the ICM Act.
- 2.2. The Department is currently processing these permits without an appropriate fee or user charge. Furthermore, the Act makes provision for the Minister to give notice in the Gazette to publish a maximum fee for access to coastal public property or infrastructure located therein, payable by persons in general or a category of persons. A feasibility study was conducted on the viability of setting the following user charges/ fees/ lease costs on or in coastal public property in the following categories:
- a) A use-charge for the use of off-road vehicles in the coastal areas.
  - b) A maximum fee tariff for access to physical infrastructure on coastal public property as contemplated in section 13(3) (b) of the ICM Act.
  - c) Determining an appropriate lease fee for the Reclamation of land from coastal waters for non-state infrastructure.
  - d) To develop fees or user charges in respect of the above 4 categories.
- 2.3. The final recommendation of the feasibility study was:
- It is premature to continue assessing an appropriate lease fee for the private reclamation of land from coastal waters and that this fee could be negotiated as and when any formal private reclamation application has been ratified by Parliament;
  - The necessary processes for the approval of user charges in respect of dumping at sea and the use of vehicles in the coastal area should be initiated; and



- A common approach for the management and operations of public launch sites be facilitated in conjunction with the provincial and local spheres of government.
- 2.4. There is currently an established permitting process in place for Off-Road Vehicle use, disposal of waste at sea and coastal waters, for which there are no fees or costs that are currently being charged.
  - 2.5. The Control of Vehicles in the Coastal Area Regulations were promulgated under the ICM Act. There is scope for the charge of a user fee, as contemplated in regulation 83 1 (1) (d) (iii) of the ICM Act. Section 83 (1) (d) (iii) allows the Minister to make regulations concerning fees, costs and rents for the use of CPP:
    - 2.5.1. The Minister may make regulations relating to any matter which this Act requires to be dealt with in regulations or that may be necessary to facilitate the implementation of this Act, including, but not limited to, regulations relating to a coastal public property, including regulations concerning-
      - i. public access to coastal public property;
      - ii. the rehabilitation of coastal public property;
      - iii. fees, costs and rents for the use of coastal public property; and
      - iv. research conducted within, or in respect of, coastal public property;
    - 2.5.2. Driving a vehicle on CPP is a 'use' as contemplated in regulation 83(1) (d) (iii) and the Minister is empowered to establish a cost for such use in terms thereof. The privilege of being allowed to drive on the beach is a use that incurs cost to the state.
  - 2.6. Dumping at sea is a deleterious activity which is highly regulated. The ICM Act has domesticated South Africa's obligations under the London Convention/ Protocol. The polluter pays principle is an internationally recognised principle that overlays the intention in the ICM Act. Only limited categories of waste are permitted for dumping in line with the Waste Assessment Guidelines developed under the London Protocol and which are captured in Schedule 2 of the ICM Act. Dumping should in principle be accompanied by a fee or a user charge as it has the potential for environmental harm and allows an activity in the space that is owned by the public and held in trust by the state.
  - 2.7. The privilege of being allowed to dump waste into the ocean is an activity which not only invokes the polluter pays principle but also incurs cost to the state for (inter alia) the following:
    - a) The environmental mitigation and monitoring requirements associated with the permitted dumping activity.
    - b) The management of the Offshore Disposal Site associated with the permitted dumping activity.
    - c) The charge related to a scientifically informed method of evaluation of the risk and damage to the environment from the permitted dumping activity.
    - d) The recovery of the environment to the permitted activity.
    - e) Assessment of the annual monitoring plans, and consultation with the proponents, including selecting representative dumpsites to monitor.
    - f) Adjusting the monitoring program with respect to potential environmental, economic, or public concerns on certain dumpsites raised during public consultations.

- g) The projected damage to the environment from the permitted activity.
  - h) Assessing movement of the material on the sea floor (is it staying on the site or is it moving towards a sensitive area?).
  - i) Assessing physical, chemical, and biological properties over time (e.g., is there chemical contamination, toxicity, or bioaccumulation?).
  - j) Taking appropriate management actions, e.g., prescribing dumping operational controls to keep the site operational, or in an extreme case, to close the site.
  - k) Stakeholder consultation.
  - l) Site visits.
- 2.8. The user charge which will include the regular adjustment of the amount charged and the frequency of this adjustment, including CPI adjustment of fees over a period of 5 – 10 years;
- 2.8.1. Similar principles apply to coastal waters discharge permits with the necessary changes, and a user charge is to be set for such activities as well.
- 2.9. The ethos in the ICM Act is to facilitate access as far as possible and to avoid excessive access fees which defeat the objectives of the ICM Act. Access fees are collected in the main by municipalities and sometimes they have agreements with private associations like boat clubs who are allowed to charge fees for entry to launch sites. Access to public launch sites is the key category of access where fees may be legally charged. Notwithstanding other categories of access to infrastructure which have may emerge, the proposed access fees and the maximum tariff is intended to prevent excessive fees being charged. More so, it is in the interest of the Department that the fees should be based on a cost recovery principle rather than on profit basis, so as to curb exclusions and meet the objectives of the Act.
- 2.10. It is envisaged that once the fees/ user charges are developed, they will become regulations under the ICM Act. According to the ICM Act Section 83 (2)(b) the Minister of DFFE must obtain consent from the Minister of Finance before making any regulations that prescribes fees / user charges for the above-mentioned permits. Furthermore, the Public Finance Management Act, 1999 (Act No. 1 of 1999) and Treasury Regulation 7.3, requires the Minister of Finance to provide concurrence with the fees based on a cost structure of administering the regulatory framework.
- 2.11. Due to the detailed assessment required, the development of such a user charge structure requires the services of a technical expert.

### **3. OBJECTIVES**

- 3.1. This project is expected to achieve a detailed report on a developed fee/ user charge structure for: -
- Use of off-Road vehicles in coastal areas permits as provided by regulations published in terms of Section 83 of the ICM Act – the 2014 ORV Regulations;
  - The authorised disposal of waste at sea as outlined in Section 71(1) of the ICM Act.;
  - The authorised discharge of effluent into coastal waters as outlined in Section 69(1) of the ICM Act; and
  - A maximum fee tariff for access to coastal public property – (e.g. public launch sites.).

#### **4. SCOPE AND EXTENT OF WORK**

- 4.1 The role of the Service Provider is to assist the Department with the determination and development of a user charge structure for the implementation of the regulations promulgated under ICM Act.
- 4.2 The following deliverables are expected:
- (a) Determine a user fee structure
    - (i) Off-Road Vehicle permits holders;
    - (ii) Disposal of waste at sea as outlined in Section 71(1) of the ICM Act; and
    - (iii) Discharge of effluent into coastal waters as outlined in Section 69(1) of the ICM Act;
  - (b) Determine a maximum fee structure for access to public launch sites;
  - (c) Liaise with DFFE, National Treasury and other key National Departments and lead departments for coastal management in the four coastal provinces in determining the fee / user charge structure throughout the project;
  - (d) To engage with National Treasury in order to determine the requirements to be met from a financial management perspective for the setting of a fee/ user charge, the establishment of a fee collection system and the allocation of collected fees;
  - (e) To facilitate the engagements and consultation between DFFE, other relevant authorities responsible for issuing coastal authorisations in terms of ICM Act of 2014 and the 4 (four) Coastal Provincial environmental authorities.
- 4.3 A summary of all correspondences obtained during the stakeholder engagement must be included as an annexure to the draft and final reports submitted for this study.
- 4.4 Produce a report that can be submitted to the National and Provincial Treasury in support of a request to approve fees / user charges for the various activities.
- 4.5 Ensure that the process followed and the report submitted refers to and complies with the relevant provisions of the Public Finance Management Act (PFMA).
- 4.6 Provide a rationale and motivation for the system proposed which can be used to justify the charges and an overview and justification must be provided, highlighting the potential positive and negative implications.
- 4.7 Provide the necessary electronic equipment, such as a data projector, computer and recording equipment (or a professional scribe to record the proceedings of each meeting or workshop).
- 4.8 A briefing session on the project will be arranged by the DFFE.

#### **5. EXPECTED DELIVERABLES / OUTCOMES**

- 5.1. At least two meetings with National Treasury should be included.
- 5.2. Deliverables:
- Inception report and presentation one (1) month after the date of appointment a

- Monthly progress report from the second month.
- Draft fee structure proposal nine (9) months after the date of appointment
- Draft Socio-economic impact study report twelve (12) months after the date of appointment
- Final fee structure proposal for Treasury approval twenty (20) months after the date of appointment
- Presentation of findings as required by the DFFE (MINTEC Working Groups and Senior Management Services (SMS) meetings, etc.).
- Every deliverable as highlighted above should be accompanied by a presentation.
- All reports must be delivered in hard copy (three original copies each), and in electronic MS Word format to be compatible with the latest Windows operating system, in font Arial 12, on CD and/or flash-drive. All reports must include a maximum five-page executive summary. All supplementary information (including copies of all reference documents and meeting minutes) gathered during the study must be submitted in electronic copy (CD/DVD/HDD) with the final report.

## **6. PERIOD / DURATION OF PROJECT / ASSIGNMENT**

- 6.1. The project duration is twenty-four 24 months from the date of appointment of the service provider and the issuing of the official purchase order.

## **7. COSTING / COMPREHENSIVE BUDGET**

- 7.1. A comprehensive budget must be provided on SBD 3.3 and pricing schedule Annexure A, and cost breakdown must be submitted together with the technical proposal. The price offer must be inclusive of all disburseable costs and expenses including costs attributable to sub-consultants and any third parties, all inclusive of VAT.
- 7.2. The total of hours should be allocated to each work package contained in the scope of work and supported by names, hourly fee of all experts forming part of the bid.
- 7.3. The service provider needs to indicate pricing stages per work packages. Payment will be based on deliverables signed off by the Project Manager from the DFFE.
- 7.4. Service providers must fully complete the guidelines menu for pricing, which is valid for 120 days.
- 7.5. It is prohibited that the descriptions and quantities of items in the pricing schedule be amended except in the case that an alternative bid has been submitted. Non-compliance to the pricing instructions may result in disqualification.
- 7.6. The service provider shall be bound to execute all the required quantities of scope as needed by the DFFE during the period of the contract.
- 7.7. DFFE reserve the right to benchmark and negotiate rates with preferred bidder/s identified in the evaluation process, regarding any terms and conditions, including prices without offering the same opportunity to any other bidder/s who has not been awarded the status of the preferred bidder/s.

## 8. EVALUATION CRITERIA

8.1. The evaluation for this bid will be carried out in three (3) phases:

- Phase 1: Pre-compliance or Initial Screening
- Phase 2: Functionality Evaluation
- Phase 3: Price and BBBEE

### 8.2. PHASE 1: Pre-compliance or Initial Screening

8.2.1. During this phase bid documents will be reviewed to determine the compliance with SCM returnable documents, tax matters, and whether proof of registration on the Central Supplier Database (CSD) has been submitted with the bid documents at the closing date and time of the bid. Bids that do not satisfy the compliance criteria will not be evaluated further.

8.2.2. The bid proposal will be screened for compliance with administrative requirements as indicated below:

Item No.	Administrative Requirements	Check/Compliance
1	Master Bid Document	Provided and bound
2	Electronic Copy (USB)	Same as the master bid document
3	SCM - SBD 1 - Invitation to Bid	Completed and signed
4	Tax Compliance and CSD Registration	Attached CSD registration number/ Proof of CSD registration and/or SARS Tax Pin
5	SBD 3.3 and Annexure A Pricing Schedule	Completed
6	SCM - SBD 4 – Bidders Disclosure	Completed and signed
7	SCM - SBD 6.1 - Preference Points Claim Form in terms of the Preferential Procurement Regulations 2017	Completed and signed
8	In case of bids where Consortia / Joint Ventures, Consortia/Joint Venture agreement signed by both parties must be submitted with bid proposal	JV agreement completed and signed, if applicable

### 8.3. PHASE 2: Functionality\_Evaluation

8.3.1. Bid proposals will be evaluated on functionality criteria.

8.3.2. The bidder must score a minimum of **75%**, during phase 2 (functionality/technical) of the evaluation to qualify for Phase 3 of the evaluation where only points for price and BBEE will be considered.

8.3.3. The following values/ indicators will be applicable when evaluating functionality:

**0 = Non-compliance, 1 = Poor; 2 = Fair; 3 = Average; 4 = Good; 5 = Excellent.**

GUIDELINES FOR CATEGORY CRITERIA	FUNCTIONALITY		WEIGHT
A proposed project plan, Methodology and Management of the project of developing fee structures and setting fees/ user charges	A details project plan with intermediate and final outputs and identified timeframes/ milestones.		
	Proposed Methodology		
	Management of the project		
	Project plan, methodology and project management in developing and setting a model for fees/ user charges	Indicator	30
	Project plan and methodology action well broken down; with detailed objectives and milestones.	5	
	Project plan and methodology, action identification basic; clear objectives and clear milestones.	4	
	Action plan provided with no deliverables and timeframes.	3	
	Limited information provided on the action plan	2	
	Task not well understood.	1	
	No information provided	0	
Certified Qualifications of the Project Leader to be assigned to the project.	Relevant qualification in the areas of Cost and Management Accounting or Management and Financial Accounting		
	Qualifications of the Project Leader	Indicator	20
	A Masters qualification in Cost and Management Accounting or	5	

GUIDELINES FOR CATEGORY CRITERIA	FUNCTIONALITY		WEIGHT
	Management and Financial Accounting		
	An honours qualification in Cost and Management Accounting or Management and Financial Accounting	4	
	Degree in Cost and management accounting or Management and Financial Accounting	3	
	A three-year diploma qualification (s) in Cost and Management Accounting or Management and Financial Accounting	2	
	Two years diploma or a certificate qualification (s) in Cost and Management Accounting or Management or Financial Accounting	1	
	No qualification (s) attached/ submitted	0	
Technical Capability/ expertise and track record of key personnel to be assigned to the project - developing fee structures and setting fees / user charges	Bidder (s) are required to demonstrate that they have the necessary resources and technical expertise to undertake and successfully complete the project.		
	Bidder (s) should submit Curriculum Vitae for the key personnel proposed to be employed on the project. Curriculum Vitae are to include specific details of these individuals including, inter alia, relevant experience and to include three contactable reference, technical qualifications and experience in developing fee structures and setting fees / user charges		
	Company experience	Indicator	30
	6 years 'or more experience	5	
	4 years' and less than 6 years' experience	4	
	3 years' and less than 4 years' experience	3	
	2 years' and less than 3 years' experience	2	
	1 year and less than 2 years' experience	1	

GUIDELINES FOR CATEGORY CRITERIA	FUNCTIONALITY		WEIGHT
	Less than 1 year experience or no experience	0	
The company's experience, track record and knowledge in developing fee structures and setting fees / user charges; and project management	<b>Bidder (s) are required to demonstrate relevant experience and competency of the company in Cost and Management Accounting, and Project Management</b>		
	<b>Bidder (s) should submit full details of at least three reliable contactable signed references for projects of a similar scope which were successfully completed in the previous years.</b>		
	<b>Company experience</b>	<b>Indicator</b>	20
	9 years 'or more experience	5	
	7 years' and less than 9 years' experience	4	
	5 years' and less than 7 years' experience	3	
	3 years' and less than 5 years' experience	2	
	1 year and less than 3 years' experience	1	
	Less than 1 year experience or no experience	0	
<b>TOTAL POINTS</b>			<b>100</b>

#### 8.4 PHASE 3: Price and BBBEE

8.4.1 Bid will be awarded to a bidder with the highest points on price and BBBEE on condition that they have met all phases of the evaluation criteria and complied with the tender requirements set out in the tender document. The bidder will be allocated 80% of the price and 20% on BBBEE.

8.4.2 The department reserves the right to negotiate prices that are not deemed market related and not to award the tender to the bidder with the lowest price.

8.4.3 Preference point system applicable for this bid is

<b>80:20</b>	<b>YES</b>
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8.4.4 Subject to sub-regulation 6(2), points will be awarded to a tenderer for attaining B-BBEE status level contributor in accordance with the table below:

B-BBEE Status Level of Contributor	Number of Points (80/20 system)
1	20



<b>B-BBEE Status Level of Contributor</b>	<b>Number of Points (80/20 system)</b>
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

8.4.5 The points scored by a tenderer in respect of the level of BBBEE contribution contemplated in sub regulation 6(2) must be added to the points scored for price as calculated in accordance with sub regulation 6(1) respectively.

8.4.6 Subject to regulation 11(1), the contract must be awarded to the tenderer who scores the highest total number of points.

8.4.7 A contract may be awarded to a tenderer that did not score the highest total number of points, only in accordance with section 2 (1) (f) of the Act

## **9 BID SUBMISSION REQUIREMENTS**

9.1. Bidders should ensure that the following submission requirements, which will be needed for evaluation purposes are included in their bid proposal and are as follows:

9.1.1. The service provider must draft a table of content which will indicate where each document is in the proposal.

9.1.2. The proposal shall consist of one master original document, and must clearly indicate the prices on SBD 3.3 and Price Schedule – Annexure A.

9.1.3. The information in the CV of the proposed Team/ Project Leader should include relevant experience in the chosen area of expertise.

9.1.4. Project reference specifying the role played by the service provider in the listed projects or assignments, project value and the duration of the project (start and end date).

9.1.5. A detailed Project Plan with clear indication of who will be responsible for the management of the assignment as well as its execution. The allocation of team members on the assignments should be based on the experience in delivering the scope of work as listed.

9.1.6. Standard bidding documents (SBD1, 3.3, 4, and 6.1)

9.1.7. Copy of Central Supplier Database (CSD) report and tax pin certificate from SARS.

## **10. LEGISLATIVE FRAMEWORK OF THE BID**

### **10.1. Tax Legislation**

- 10.1.1. Bidder must at all time attempt to be compliant when submitting proposal to DFFE and remain compliant for the entire contract term with all applicable tax legislation, including but not limited to the Income Tax Act, 1962 (Act No. 58 of 1962) and Value Added Tax Act, 1991 (Act No. 89 of 1991).
- 10.1.2. Bidders who make taxable supplies more than R1 million in any 12-month conservative period are liable for compulsory VAT registration, but a person may also choose to register voluntarily provided that the minimum threshold of R50 000 has been exceeded in the past 12-month period.
- 10.1.3. Bidders who meet the above requirement must register as VAT vendors, if successful, within one month of award of the bid.
- 10.1.4. SARS Tax Status Pin requirements / or Central Supplier Database (CSD) number or report must be provided.

### **10.2. Procurement Legislation**

- 10.2.1. Bidders should be cognisant of the legislation and/or standards specifically applicable to the services.
- 10.2.2. Bidders are requested to submit a valid B-BBEE Status Level Verification Certificate issued by SANAS, or Accredited Verification Agency; or B-BBEE Certificate issued by CIPC, or Sworn Affidavit commissioned by Commissioner of Oaths together with their bids.
- 10.2.3. If the application is made by a Joint Venture or Partnership, the accreditation credentials in name of joined entity should be submitted. Both members in the joint venture must meet the requirement of the proposal.

### **10.3. Privacy & Protection of Personal Information Act 4 of 2013**

- 10.3.1. Protecting personal information is important to the Department of Forestry, Fisheries, and the Environment. To do so, DFFE follows general principles in accordance with applicable privacy laws and the Protection of Personal Information Act 4 of 2013 (POPIA).

- 10.3.2. The DFFE's role as the responsible party, is amongst others to process personal information for the intended purpose for which it was obtained and in line with legal agreements with its respective/prospective services providers and third parties.
- 10.3.3. The DFFE will process personal information only with the knowledge and authorisation of the bidder/respondent and will treat personal information which comes to its knowledge as confidential and will not disclose it, unless so required by law or subject to the exception contained in the POPIA.
- 10.3.4. The DFFE reserves all the rights afforded to it by the POPIA in the processing of any of its information as contained in this bid and the bidder/respondent is required to comply with all prescripts as detailed in the POPIA relating to all information concerning the DFFE.
- 10.3.5. In responding to this bid, the DFFE acknowledges that it will obtain and have access to personal information of the bidder/respondent. The DFFE agrees that it shall only process the information disclosed by the bidder/respondent in their response to this bid for the purpose of evaluation and subsequent award of the tender and in accordance with any applicable law.

## **11. SPECIAL CONDITIONS OF CONTRACT**

- 11.1. On appointment, the performance measures for the delivery of the agreed services will be closely monitored by Project Manager.
- 11.2. The Service Provider will submit fortnight progress reports to the Project Manager, within 3 days after the end of the two weeks for the duration of the project, submitted in both soft and hard copies. Failure to submit the required reports on time will result in penalties.
- 11.3. NB\* Project co-ordination would be carried out within the project team. Monthly reporting, or alternative reporting periods as agreed to with the Chief Director: Integrated Coastal Management, or her/his alternate, will be required.
- 11.4. All work is to be carried out in accordance with the time schedule as agreed with the Programme manager
- 11.5. The study should begin on the day of appointment, with a mandatory inception meeting within 2 (two) weeks of appointment hosted by the two Directorates: Coastal Conservation Strategies (CCS) and Coastal Pollution Management (CPM) of Oceans and Coasts branch within the DFFE, to brief the service provider on the project, and to clarify any issues that might not be clear.
- 11.6. The progress report should be submitted to the Chief Director: Integrated Coastal Management and Director: Coastal Conservation Strategies or/ and Director: Coastal Pollution Management of the DFFE, three (3) months after the date of appointment.
- 11.7. The draft report should be submitted to the Chief Director: Integrated Coastal Management and Directors: Coastal Conservation Strategies/ Coastal Pollution Management 6months after the date of appointment.

- 11.8. Allow three (3) weeks for comment by the client, following which the final report will be delivered 12 months after the date of appointment.
- 11.9. The DFFE will not be held responsible for any costs incurred by the service providers in the preparation, presentation, and submission of the proposal.
- 11.10. The Project Manager shall do the ongoing management of the Service Level Agreement (SLA).
- 11.11. The Service Provider must guarantee the presence of the Team Leader in charge of programme throughout the duration of the contract.
- 11.12. All the conditions specified in the General Conditions of Contract (GCC) will apply and where the conditions in the special conditions of contract contradicts the conditions in the general conditions of contract the special conditions of contract will prevail.
- 11.13. The supplier shall notify the Department in writing of all subcontracts awarded under this contract if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.
- 11.14. In a case a tenderer is intending to sub-contract portion of work, such tenderer awarded a contract may only enter sub-contracting arrangements with the approval of the department.
- 11.15. Letter of Authority to sign documents on behalf of the company.
- 11.16. The proposals should be submitted with all required information containing technical information.
- 11.17. Service Providers are requested to submit any of the following documents as proof of B-BBEE Status level of contributor:
  - a. B-BBEE status level Certificate issued by a Verification Agency accredited by SANAS.
  - b. A Sworn Affidavit as prescribed by the B-BBEE Codes of Good Practice.
  - c. B-BBEE certificate issued by the Companies and Intellectual Property Commission.
  - d. SBD 6.1 must also be completed, signed, and submitted alongside the bid to claim preference points. Failure to do so will result in B-BBEE preference points being forfeited.
  - e. A trust, consortium or joint venture will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
  - f. A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate proposal.

- g. In the event that the application is made by a Joint Venture or Partnership, the accreditation credentials in name of joined entity should be submitted. Both members in the joint venture must meet the requirement of the proposal.

11.18. Poor or non-performance by the bidder will result in cancellation of works orders.

## **12. SUB-CONTRACTING CONDITIONS/ REQUIREMENTS**

- 12.1 In a case a tenderer is intending to sub-contract portion of work, such tenderer awarded a contract may only enter into sub-contracting arrangements with the approval of the Department.
- 12.2 In relation to a designated sector, a contractor will not be allowed to subcontract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- 12.3 A tenderer will not be awarded the points claimed for B-BBEE status level of contribution or contract if it is indicated in the bid documents that such a bidder intends subcontracting more than 25% of the contract value to any other enterprise that does not qualify for at least the same number of points that the bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- 12.4 The contractor is not allowed to sub-contract more than 25% of the contract value to another enterprise that does not have equal or higher B-BBEE status level, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.

## **13. PAYMENT TERMS**

- 13.1 The DFFE undertakes to pay out in full or as per deliverables within 30 (thirty) days all valid claims for work done to its satisfaction upon presentation of a substantiated claim and the required reports stipulated in special conditions. No payment will be made where there is outstanding information/work not submitted by the Service Provider/s until that outstanding information is submitted.

## **14. TECHNICAL ENQUIRIES**

- 14.1 Should you require any further information in this regard, please do not hesitate to contact:

Name: Adv. Radia Razack  
Office Telephone No.: 084 513 1643  
E-Mail: [Rrazack@dffe.gov.za](mailto:Rrazack@dffe.gov.za)



## ANNEXURE A – PRICE SCHEDULE

EXPENDITURE ITEM	DESCRIPTION	NAME OF THE PROPOSED EXPERT	ESTIMATED QUANTITY (NO)	RATE PER HOUR (EXCLUDING VAT)	TOTAL COST PER ACTIVITY (EXCLUDING VAT)
Project Management Fees (maximum of 8 hrs. per day or 172 hrs. per month).	<b>Project management fees include professional fees for the overall management of the project including</b>				
	Monitoring of day-to-day activities.		Hrs	R	R
	Administration costs.		Hrs	R	R
	Monthly meetings and reporting.		Hrs	R	R
	Stakeholder engagements.		Hrs	R	R
	For all areas of work as detailed in the Terms of Reference.		Hrs	R	R
Costs of Consultants and Third parties (if any)	The use of any consultants or third parties must be detailed and included		Hrs	R	R
Transportation of project participants to and from installation sites	Kilometers travelled as per Gazetted indicative tariffs for the use of motor transport for business purposes (estimated at 1000km per month).		1000 Km	R	R
<b>TOTAL FEES</b>					<b>R</b>
<b>7% OF DISBURSEMENT OF TOTAL FEES</b>					<b>R</b>
<b>SUB TOTAL</b>					<b>R</b>
<b>VAT @ 15%</b>					<b>R</b>
<b>TOTAL PROJECT COST</b>					<b>R</b>

# **THE NATIONAL TREASURY**

**Republic of South Africa**



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## **GOVERNMENT PROCUREMENT: GENERAL CONDITIONS OF CONTRACT**

**July 2010**



**GOVERNMENT PROCUREMENT**  
**GENERAL CONDITIONS OF CONTRACT**  
**July 2010**

**NOTES**

The purpose of this document is to:

- (i) Draw special attention to certain general conditions applicable to government bids, contracts and orders; and
- (ii) To ensure that clients be familiar with regard to the rights and obligations of all parties involved in doing business with government.

In this document words in the singular also mean in the plural and vice versa and words in the masculine also mean in the feminine and neuter.

- The General Conditions of Contract will form part of all bid documents and may not be amended.
- Special Conditions of Contract (SCC) relevant to a specific bid, should be compiled separately for every bid (if applicable) and will supplement the General Conditions of Contract. Whenever there is a conflict, the provisions in the SCC shall prevail.

## **TABLE OF CLAUSES**

1. Definitions
2. Application
3. General
4. Standards
5. Use of contract documents and information; inspection
6. Patent rights
7. Performance security
8. Inspections, tests and analysis
9. Packing
10. Delivery and documents
11. Insurance
12. Transportation
13. Incidental services
14. Spare parts
15. Warranty
16. Payment
17. Prices
18. Contract amendments
19. Assignment
20. Subcontracts
21. Delays in the supplier's performance
22. Penalties
23. Termination for default
24. Dumping and countervailing duties
25. Force Majeure
26. Termination for insolvency
27. Settlement of disputes
28. Limitation of liability
29. Governing language
30. Applicable law
31. Notices
32. Taxes and duties
33. National Industrial Participation Programme (NIPP)
34. Prohibition of restrictive practices

## **General Conditions of Contract**

### **1. Definitions**

1. The following terms shall be interpreted as indicated:
  - 1.1 “Closing time” means the date and hour specified in the bidding documents for the receipt of bids.
  - 1.2 “Contract” means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
  - 1.3 “Contract price” means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
  - 1.4 “Corrupt practice” means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.
  - 1.5 "Countervailing duties" are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
  - 1.6 “Country of origin” means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
  - 1.7 “Day” means calendar day.
  - 1.8 “Delivery” means delivery in compliance of the conditions of the contract or order.
  - 1.9 “Delivery ex stock” means immediate delivery directly from stock actually on hand.
  - 1.10 “Delivery into consignees store or to his site” means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the supplies are so delivered and a valid receipt is obtained.
  - 1.11 "Dumping" occurs when a private enterprise abroad market its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the

RSA.

- 1.12 "Force majeure" means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- 1.13 "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.
- 1.14 "GCC" means the General Conditions of Contract.
- 1.15 "Goods" means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
- 1.16 "Imported content" means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the supplies covered by the bid will be manufactured.
- 1.17 "Local content" means that portion of the bidding price which is not included in the imported content provided that local manufacture does take place.
- 1.18 "Manufacture" means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.
- 1.19 "Order" means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20 "Project site," where applicable, means the place indicated in bidding documents.
- 1.21 "Purchaser" means the organization purchasing the goods.
- 1.22 "Republic" means the Republic of South Africa.
- 1.23 "SCC" means the Special Conditions of Contract.
- 1.24 "Services" means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such

obligations of the supplier covered under the contract.

- 1.25 “Written” or “in writing” means handwritten in ink or any form of electronic or mechanical writing.

## **2. Application**

- 2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services, sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
- 2.2 Where applicable, special conditions of contract are also laid down to cover specific supplies, services or works.
- 2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

## **3. General**

- 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
- 3.2 With certain exceptions, invitations to bid are only published in the Government Tender Bulletin. The Government Tender Bulletin may be obtained directly from the Government Printer, Private Bag X85, Pretoria 0001, or accessed electronically from [www.treasury.gov.za](http://www.treasury.gov.za)

## **4. Standards**

- 4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.

## **5. Use of contract documents and information; inspection.**

- 5.1 The supplier shall not, without the purchaser’s prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 5.2 The supplier shall not, without the purchaser’s prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
- 5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier’s performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier’s records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

## **6. Patent rights**

- 6.1 The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.

**7. Performance security**

- 7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.
- 7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.
- 7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:
- (a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or
  - (b) a cashier's or certified cheque
- 7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified in SCC.

**8. Inspections, tests and analyses**

- 8.1 All pre-bidding testing will be for the account of the bidder.
- 8.2 If it is a bid condition that supplies to be produced or services to be rendered should at any stage during production or execution or on completion be subject to inspection, the premises of the bidder or contractor shall be open, at all reasonable hours, for inspection by a representative of the Department or an organization acting on behalf of the Department.
- 8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.
- 8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the supplies to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.
- 8.5 Where the supplies or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such supplies or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.
- 8.6 Supplies and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.
- 8.7 Any contract supplies may on or after delivery be inspected, tested or

analyzed and may be rejected if found not to comply with the requirements of the contract. Such rejected supplies shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with supplies which do comply with the requirements of the contract. Failing such removal the rejected supplies shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute supplies forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected supplies, purchase such supplies as may be necessary at the expense of the supplier.

- 8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 23 of GCC.

## **9. Packing**

- 9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.
- 9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, specified in SCC, and in any subsequent instructions ordered by the purchaser.

## **10. Delivery and documents**

- 10.1 Delivery of the goods shall be made by the supplier in accordance with the terms specified in the contract. The details of shipping and/or other documents to be furnished by the supplier are specified in SCC.
- 10.2 Documents to be submitted by the supplier are specified in SCC.

## **11. Insurance**

- 11.1 The goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the SCC.

## **12. Transportation**

- 12.1 Should a price other than an all-inclusive delivered price be required, this shall be specified in the SCC.

## **13. Incidental services**

- 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:
- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
  - (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
  - (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;

- (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
- (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.

13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.

#### **14. Spare parts**

14.1 As specified in SCC, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:

- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and
- (b) in the event of termination of production of the spare parts:
  - (i) Advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
  - (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

#### **15. Warranty**

15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.

15.2 This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in SCC.

15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.

15.4 Upon receipt of such notice, the supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.

15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the purchaser may proceed to take



such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

**16. Payment**

- 16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC.
- 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfillment of other obligations stipulated in the contract.
- 16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
- 16.4 Payment will be made in Rand unless otherwise stipulated in SCC.

**17. Prices**

- 17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized in SCC or in the purchaser's request for bid validity extension, as the case may be.

**18. Contract amendments**

- 18.1 No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned.

**19. Assignment**

- 19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.

**20. Subcontracts**

- 20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contracts if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract.

**21. Delays in the supplier's performance**

- 21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.
- 21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
- 21.3 No provision in a contract shall be deemed to prohibit the obtaining of supplies or services from a national department, provincial department, or a local authority.
- 21.4 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the

supplier's point of supply is not situated at or near the place where the supplies are required, or the supplier's services are not readily available.

21.5 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of penalties.

21.6 Upon any delay beyond the delivery period in the case of a supplies contract, the purchaser shall, without canceling the contract, be entitled to purchase supplies of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.

## **22. Penalties**

22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.

## **23. Termination for default**

23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:

- (a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
- (b) if the Supplier fails to perform any other obligation(s) under the contract; or
- (c) if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.

23.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.

23.4 If a purchaser intends imposing a restriction on a supplier or any

person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the intended penalty as not objected against and may impose it on the supplier.

23.5 Any restriction imposed on any person by the Accounting Officer / Authority will, at the discretion of the Accounting Officer / Authority, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Accounting Officer / Authority actively associated.

23.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:

- (i) the name and address of the supplier and / or person restricted by the purchaser;
- (ii) the date of commencement of the restriction
- (iii) the period of restriction; and
- (iv) the reasons for the restriction.

These details will be loaded in the National Treasury's central database of suppliers or persons prohibited from doing business with the public sector.

23.7 If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.

#### **24. Anti-dumping and countervailing duties and rights**

24.1 When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall on demand be paid forthwith by the contractor to the State or the State may deduct such amounts from moneys (if any) which may otherwise be due to the contractor in regard to supplies or services which he delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which

may be due to him

**25. Force Majeure**

- 25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.
- 25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

**26. Termination for insolvency**

- 26.1 The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser.

**27. Settlement of Disputes**

- 27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.
- 27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.
- 27.4 Mediation proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.
- 27.5 Notwithstanding any reference to mediation and/or court proceedings herein,
- (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and
  - (b) the purchaser shall pay the supplier any monies due the supplier.

**28. Limitation of liability**

- 28.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 6;
- (a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and

	(b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.
<b>29. Governing language</b>	29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.
<b>30. Applicable law</b>	30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified in SCC.
<b>31. Notices</b>	<p>31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice</p> <p>31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.</p>
<b>32. Taxes and duties</b>	<p>32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.</p> <p>32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.</p> <p>32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services.</p>
<b>33. National Industrial Participation Programme (NIP)</b>	33.1 The NIP Programme administered by the Department of Trade and Industry shall be applicable to all contracts that are subject to the NIP obligation.
<b>34 Prohibition of Restrictive practices</b>	<p>34.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder (s) is / are or a contractor(s) was / were involved in collusive bidding (or bid rigging).</p> <p>34.2 If a bidder(s) or contractor(s), based on reasonable grounds or evidence obtained by the purchaser, has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in the Competition Act No. 89 of 1998.</p>

- 34.3 If a bidder(s) or contractor(s), has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.



# DEPARTMENT OF ENVIRONMENTAL AFFAIRS

## BAS ENTITY MAINTENANCE FORM

### Head Office Only

Date Received \_\_\_\_\_  
Safetynet Capture \_\_\_\_\_  
Safetynet Verified: \_\_\_\_\_  
BAS/LOGIS Capt \_\_\_\_\_  
BAS/LOGIS Auth \_\_\_\_\_  
Supplier No. \_\_\_\_\_

### The Director General

I/We hereby request and authorise you to pay any amounts, which may accrue to me/us to the credit of my/our account with the mentioned bank.

I/we understand that the credit transfers hereby authorised will be processed by computer through a system known as "ACB - Electronic Fund Transfer Service", and I/we understand that no additional advice of payment will be provided by my/our bank, but that the details of each payment will be printed on my/our bank statement or any accompanying voucher. (This does not apply where it is not customary for banks to furnish bank statements).

I/we understand that the Department will supply a payment advice in the normal way, and that it will indicate the date on which the funds will be made available on my/our account.

This authority may be cancelled by me/us by giving thirty days notice by prepaid registered post.

**Please ensure information is validate as per required bank screens .**

I/We understand that bank details provided should be exactly as per record held by the banks.

**I/We understand that the Department will not held liable for any delayed payments as a result of incorrect information supplied.**

### Company / Personal Details

Registered Name

Trading Name

Tax Number

VAT Number

Title:

Initials:

Full Names

Surname

Persal Number

### Address Detail

Address

( Compulsory if Supplier )

Physical

Postal

Postal Code

### New Detail

☐ New Supplier information ☐ Update Supplier information

Supplier Type:

☐ Individual  
☐ Company  
☐ CC

☐ Department  
☐ Trust  
☐ Other ( Specify )

☐ Partnership

\_\_\_\_\_

Department Number

\_\_\_\_

(Please note that this account MUST be in the name of the supplier. No 3rd party payments allowed).

Account Type

- ABSA**-CIF screen  
**FNB**-Hogans system on the CIS4/CUPR  
**STD** Bank-Look-up-screen  
**Nedbank**- Banking Platform under the Client Details Tab

Bank Stamp

	Area Code	Telephone Number	Extension
Business	<input type="text"/>	<input type="text"/>	<input type="text"/>
Home	<input type="text"/>	<input type="text"/>	<input type="text"/>
Fax	<input type="text"/>	<input type="text"/>	<input type="text"/>
Cell	<input type="text"/>	<input type="text"/>	

Supplier Signature

---

Print Name \_\_\_\_\_

**Date** (dd/mm/yyyy)

**NB: All relevant fields must be completed**